

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 4598 OF 2024

Ayush Bhandu Pratap Singh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Amarendra Mishra, Advocate for Applicant.
 - Ms. Savita Yadav, APP for Respondent – State.
 - Mr. Ramkrushna Bhodke, API, Mira Road Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 17, 2025.

P.C.:

1. Heard Mr. Mishra, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No. 37 of 2023 registered with Mira Road Police Station for offences punishable under Sections 302, 120-B, 323, 143, 145, 147, 148, 149 read with 34 of the Indian Penal Code, 1860 (for short 'IPC') read with Sections 4 and 25 of the Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is a young offender, a 21 years old -student at the time of the incident. He is arraigned as Accused No.2. There are in all

12 accused who are 19 to 25 years old, Applicant is one of the co-accused in the alleged incident. However 9 out of 12 accused persons have been enlarged on bail. Applicant is incarcerated for being a part of the group of accused persons and for committing the crime for the past 2 years in jail.

4. Mr. Mishra has drawn my attention to the chargesheet filed by the prosecution and would argue that there were two (2) precursor incidents which occurred beginning from 3:30 p.m. onwards on the date of the incident which resulted in the alleged crime.

5. Name of the deceased is Ankush Kumar who was employed as a delivery boy with Blinkit, Complainant is the mother of victim. The first incident at 3:30 p.m. was rather an unfortunate incident. Applicant and one Harshraj who is the nephew of deceased were both waiting at the petrol pump in queue at Mira Road to refuel their motorcycles. It is seen that Applicant jumped the queue ahead of Harshraj which led to a verbal spat between them. Both Applicant and Harshraj left the petrol pump after refueling their motorcycles. Harshraj was accompanied by his friend Amisha who witnessed the said incident at the petrol pump. However nothing untoward happened at the petrol pump.

6. However 2 hours later at 5:30 p.m. Harshraj noticed Applicant with his two friends Farhan and Aquib near a garage located

in the same vicinity and confronted the Applicant for his behaviour at the petrol pump. Both Harshraj and the Applicant were with their friends and they had a verbal altercation once again between them. Harshraj then left the place with intent to teach Applicant a lesson and called his friend Mohit to confront the Applicant. Prosecution case thereafter is that Harshraj, Mohit and his other friends thereafter confronted the Applicant and his friends and carried on with their verbal altercation further. In this scuffle Applicant was assaulted by Harshraj and his friend and suffered a head injury which is revealed from the the Medical Report placed on record. After sometime another friend of Harshraj called Vasu joined him and confronted the Applicant to diffuse the situation between them and while this talk was going on at that time the deceased – victim Ankush Kumar, arrived on the scene on his motorcycle and intervened. However he was informed that the issue between the parties was settled.

7. Apart from the above two (2) precursor incidents, 45 minutes later i.e. at about 06:15 p.m. when the deceased – victim was walking on the road in the same area due to the grudge against him for intervening, he was assaulted by 7-8 persons resulting in he receiving serious injuries which led to his death. However this incident spot was near Jangid Circle and present Applicant at that time according to prosecution was admittedly near Laxmi Enclave, Gokul village which is at the distance of 1 kilometer from the incident spot.

8. Mr. Mishra, learned Advocate for Applicant would submit that it is true that Applicant was part of the first two (2) precursor incidents but he had no intention or any pre-meditation to conspire and or assault the deceased – victim neither he was present at the incident spot during the 3rd (third) incident. He would submit that the CCTV footage of third incident wherein deceased – victim was assaulted by a knife do not disclose the presence of the Applicant at the incident spot. He would submit that the role of the Applicant is far lesser than Accused No. 4 to 12 who have all been released on bail by the Sessions Court. He would submit that merely because Applicant was part of the first two (2) precursor incidents in question, he cannot be said to be a prime accused in the 3rd (third) incident. Although he had the unfortunate incidents with Harshraj.

9. Ms. Yadav, learned APP for Respondent – State has opposed the Application. She would submit that Applicant had a verbal spat with Harshraj on account of jumping the queue at the petrol pump. She would submit that Applicant therefore called other co-accused to take revenge. She would submit that he with other co-accused hatched a conspiracy. She would submit that at the instance of Applicant, the deceased – victim was assaulted which eventually led to his death. She would submit that crime committed is of a serious nature. She would submit that if Applicant is released on bail there is every possibility of him re-offending himself, tampering with evidence and influencing the

witnesses. Hence she would urge the Court to reject the Application.

10. It is *prima facie* seen that Applicant in the present case is a 21 year old - student at the time of the incident. *Prima facie* on perusal of the chargesheet it is seen that Applicant was present during the first two (2) precursor incidents which took place but he is not seen at the time of the third incident in the CCTV footage relied on by the prosecution. It is also seen that Applicant in one of the first two precursor incidents was himself assaulted by Harshraj and his friend and sustained a head injury which is evident from the Medical Report placed on record. While the said assault could be the probable reason for the alleged third incident however same can be a subject for trial for determining the complicity of the accused persons including Applicant. It is *prima facie* seen that Applicant's role in the present case is far lesser than that of the other co-accused who have been released on bail by the Sessions Court who were present during the third incident.

11. *Prima facie* no direct or substantial evidence is placed on record by the prosecution to show that Applicant was present at the incident spot during the alleged incident which persuades me to consider Applicant's case. It is crucial to consider the age of the Applicant who was 21 years old at the time of the incident and he is not a hardened criminal, neither he has any antecedents. Applicant in

the present case is a young offender who has suffered incarceration of almost two years. The key question before me is whether further incarceration of Applicant, given his young age in the above *prima facie* facts is warranted?

12. The Supreme Court has held in a series of judgments and orders that in situations where the under-trial prisoner / accused person has suffered incarceration, rather long incarceration for a considerable period of time and there is no possibility of the trial being completed within the near foreseeable future, Constitutional Courts can exercise power to release the accused under-trial on bail, as bail is the rule and jail is the exception.

13. It is settled law that a Court while deciding a Bail Application has to keep in mind the principal rule of bail which is to ascertain whether the Accused is likely to appear before the court for trial. There are other broad parameters also like gravity of offence, likelihood of Accused repeating the offence while on bail, whether he would influence the witnesses and tamper with the evidence, his antecedents which are required to be considered in such cases.

14. Considering the aforementioned facts and circumstances, role attributed to the Applicant, absence of criminal antecedents. Applicant's incarceration for 2 years pending trial, the commencement and completion of trial in the near foreseeable future being doubtful,

furthermore investigation is completed, chargesheet been filed and other co-accused having been released on bail, it persuades me to consider the Applicant's case on the ground of parity. Concerns expressed by the learned APP can undoubtedly be taken care of by imposing strict conditions.

15. In view of the *prima facie* observations and facts delineated herein above Applicant before me is released on bail. Bail Application is allowed on the following terms and conditions:-

- i. Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- ii. After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- iii. Applicant shall attend the trial Court on first Monday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Monday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- iv. Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will

entitle the prosecution to apply for cancellation of this order;

- v. Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- vi. Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- vii. Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail, to the concerned Police Station and also to the trial Court;
- viii. In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

16. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall be adjudicated on the basis of the evidence uninfluenced by the present order and strictly in accordance with law.

17. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2025.03.18
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